



Ninety-Eighth Legislature - First Session - 2003
Committee Statement
LB 748

Hearing Date: February 26, 2003
Committee On: Natural Resources

Introducer(s): (Beutler)

Title: Require financial assurance of livestock waste control facility permittees

Roll Call Vote – Final Committee Action:

Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

Vote Results:

5	Yes	Senators Friend, Hudkins, Jones, Kremer, Louden
1	No	Senator Preister
2	Present, not voting	Senators Schrock, Stuhr
0	Absent	

Proponents:

Senator Chris Beutler
Ken Winston
Laura Krebsbach
Thomas Brown
Cindy Togstad
Rob Schupbach
Hal Hansen

Representing:

Introducer
Nebraska Sierra Club
Nebraska Sierra Club
Self
Ma & Pa Kettles for Family Farmers
Conrhusker Fly Fishers
Nebraska Farmers Union

Opponents:

Gale Pohlmann
Ron Sedlacek
Rod Johnson
Gary Hellerich
Steve Ruskamp
Bill Luckey

Representing:

Nebraska Pork Producers
Nebraska Bankers Association
Nebraska Pork Producers
Nebraska Soybean Association
Self
Nebraska Pork Producers; Platte Valley
Cattlemen
Nebraska Farm Bureau
Nebraska Cattlemen
Self
Nebraska Pork Producers
Self
Self

Matt Jedlicka
Greg Ruehle
Loran Schmit
Danny Kluthe
Reynold Vering
Daryl Urwiler

Neutral:
None

Representing:

Summary of purpose and/or changes:

LB 748 does the following:

- Section 1. Findings and legislative intent.
- Section 2. Allows cities and counties to require additional financial assurance if they so choose.
- Section 3. All permitted livestock waste control facilities would be required to furnish evidence of financial responsibility to comply with closure of retention structures or other facilities or remediation of groundwater or other environmental contamination.
- Gives current permittees six months to come into compliance.
 - Future permittees would be required to furnish this as a part of the original application process.
- Section 4. (1) Allows the Department of Environmental Quality to require financial assurance in the form of an irrevocable commercial letter of credit, cash, a cashier's check, a certificate of deposit, a bank joint custody receipt, other negotiable instrument or a blanket surety bond.
- (2) Establishes the minimum financial assurance at \$20.00 times the capacity number of animal units of a class of livestock waste control facility.
- This rate must be adjusted annually for inflation.
 - The amount required could also be based upon the estimated cost to clean up the land, soil or water on or off site in the event of leakage, spillage or abandonment of the facility.
 - Requires the financial assurance be sufficient to cover the costs of disposing of all animal waste, liquid or solid, clearing and removing all above-ground structures at the facility, plus cleanup of affected public and private roads, ditches, waterways or easements.
- Section 5. (1) If no financial assurance is required, the department must institute an indemnification fund covering all classes of facilities by assessing all permittees an amount sufficient to meet the requirements of financial assurance required under Section 4.
- (2) Creates The Livestock Waste Remedial Fund.
- (3) Caps the fund when it equals or exceeds the amount necessary to provide financial assurance for remedial action.

- Section 6. The permit holder is not released from any liability for the costs of closure, remediation of groundwater or other environmental contamination or other costs attributable to the abandonment of the facility or unauthorized release of animal waste stored at the facility into the environment. It also allows the department to recover costs associated with remediation which exceed the amount of financial assurances.
- Section 7. (1) a. Failure to properly close a facility shall cause the financial assurance of the individual to be forfeited or the individual will have to pay a sum equal to the cost of closure of any surface improvement or removal of equipment to the department.
- b. If money received from permittees is inadequate, the department can use money from the Fund.
- (2) The department can recover costs of litigation to enforce the provisions of this act, except that before the permittee is required to pay or forfeit any money, the permittee will have ten days after the date of the required notification by the department to commence remedial operations. Failure to perform remedial operations results in forfeiture or payment.
- Section 8. Transferees are required to furnish financial assurance as well as the original owner.
- Section 9. Conformity section.
- Section 10. Forbids the operation of a livestock waste control facility if the financial assurance requirements are not met.
- Section 11. Repealer

Explanation of amendments, if any:

None

Senator Ed Schrock, Chairperson